

**State Primacy Revision Application
for the
Lead and Copper Technical Corrections Rule
Analytical Methods Technical Corrections Rules
Analytical Methods for Radionuclides Rule
Administrative Penalty Authority
Emergency Plan Revisions
Public Water System Definition
Consumer Confidence Report (CCR) Rule
Suspension of UCMR for Small Systems
Interim Enhanced Surface Water Treatment Rule (IESWT)
Disinfectants and Disinfection Byproducts Rule
Lead and Copper Rule, Minor Revisions**

CONTENTS:

1. § 142.10 Requirements - State Primacy Revision Checklist
2. Text of the State's Regulation
3. § 141 Requirements - Primacy Revision Crosswalk
4. § 142.16 - State Reporting and Recordkeeping Requirements
5. Attorney General's Statement of Enforceability

State: New Jersey Department of Environmental Protection

Date Application Submitted: Draft 11/30/01

Date Review Completed:

EPA Region: New York, Region II

Review Staff:

STATE PRIMACY REVISION APPLICATION

Pursuant to Section 142.12, Revision of State Programs, complete and final requests for approval of program revisions to adopt new or revised EPA regulations must be submitted to the EPA no later than 2 years after promulgation of the new or revised federal regulation, unless an extension request (for up to two additional years) has been granted. The following new or revised National Primary Drinking Water regulations have been promulgated and are part of this primacy application package:

- ! Lead and Copper Rule Technical Corrections June 24, 1994
- ! Analytical Methods Technical Corrections December 5, 1994
- ! Analytical Methods Technical Corrections June 29, 1995
- ! Analytical Methods for Radionuclides March 5, 1997
- ! Administrative Penalty Authority April 28, 1998
- ! Emergency Plan Revisions April 28, 1998
- ! Public Water System Definition April 28, 1998
- ! Removal of Prohibition on the Use of Point of Use Devices for Compliance with the NPDWR, June 11, 1998
- ! Consumer Confidence Reports August 19, 1998
- ! Variances and Exemptions August 19, 1998
- ! Interim Enhanced Surface Water Treatment December 16, 1998
- ! Disinfectants and Disinfection Byproducts December 16, 1998
- ! Suspension of UCMR for Small Systems January 8, 1999
- ✓! Lead and Copper Rule Minor Revisions January 12, 2000

Primacy

40 CFR 142 sets out requirements for States to obtain and/or retain primary enforcement responsibility (primacy) for the Public Water System Supervision (PWSS) program as authorized by Section 1413 of the Safe Drinking Water Act (SDWA). The 1996 SDWA Amendments created a number of requirements that modify the process for States to obtain and/or retain

primacy. The changes were promulgated by the Environmental Protection Agency (EPA) on April 28, 1998 (63 FR 23361).

There is also a new process identified in the SDWA Amendments of 1996 which allows for interim primacy authority for States while their applications to modify their primacy programs are under review. If a State has primacy for every existing national primary drinking water regulation in effect when the new regulation is promulgated, the State will have interim primacy for a new or revised regulation during the period in which EPA is making a determination with regard to primacy for that new or revised regulation.

Lead and Copper Rule Technical Corrections - promulgated June 24, 1994

EPA amended the National Primary Drinking Water Regulations for lead and copper to correct typographical errors, clarify language, and restore special primacy requirements inadvertently deleted from the Code of Federal Regulations. These changes clarified EPA requirements. The intended effect was to simplify implementation of the regulations by reducing confusion.

Analytical Methods Technical Corrections - promulgated December 5, 1994

EPA promulgated the use of several new analytical methods and updated versions of previously approved methods for a number of regulated contaminants in drinking water. At the same time, EPA withdrew approval of outdated methods or outdated versions of the same methods. The purpose of the rule was to approve new methods, withdraw outdated methods, update older methods for the analysis of regulated contaminants in drinking water. The rule eliminated unnecessary duplication by withdrawing older versions of the same method, and satisfied public requests for approval of new technologies.

Analytical Methods Technical Corrections - promulgated June 29, 1995

EPA amended the National Primary Drinking Water Regulations to correct typographical errors and minor technical mistakes or omissions.

Analytical Methods for Radionuclides - promulgated March 5, 1997

This rule promulgated analytical methods for measurement of radionuclides in drinking water based on the July 18, 1991 Proposed Notice of Rulemaking for Radionuclides in Drinking Water (54 methods) and on the public comments received on the 1991 proposal (12 methods) for compliance with current radionuclide drinking water standards and monitoring requirements. The 1991 rulemaking proposed to approve analytical methods and establish Maximum Contaminant Level Goals (MCLGs) and the National Primary Drinking Water Regulations (NPDWRs) for several radionuclides. The methods are applicable to gross alpha, gross beta, tritium, uranium, radium-226, radium-228, gamma emitters, and radioactive cesium, iodine, and strontium. This action corrected method citation and typographical errors made in the 1991 proposal. EPA did not withdraw any of the 14 previously approved methods in this action, and thus imposed no burden.

Administrative Penalty Authority - promulgated April 28, 1998

To implement the amendments to §1413, the Primacy Rule makes the following changes to the existing regulations in 40 CFR 141 and 142:

States are now required to have administrative penalty authority for all violations of their approved primacy program, unless prohibited by the State constitution. This encompasses applicable requirements in 40 CFR 141 and 142 including, but not limited to, National Primary Drinking Water Regulations, variances and exemptions, if applicable, and public notification requirements.

Emergency Plan Revisions – promulgated April 28, 1998

The amended Section 1413(a)(5) of the SDWA requires the state to prepare emergency response plan with included earthquakes as one of identified emergency triggers. The New Jersey Water Supply Emergency Response Plan as revised November 1, 2001 now includes earthquakes as an emergency trigger.

Public Water System Definition – promulgated April 28, 1998

The amended Section 1401(4) does two things. First, it expands the definition of a PWS (in 1401(4)(A) to include suppliers of water for human consumption which use constructed conveyances that are not pipes. Second, it provides a detailed means by which the Administrator or primacy State can determine that entities that would only be defined as PWSs because of this change to the definition are excluded from being PWSs (thus excluding them from compliance with SDWA as a whole) if they have taken specific actions to ensure protection of public health when providing certain water for human consumption (Section 1401(4)(B) and (C).

Consumer Confidence Report (CCR) - promulgated August 19, 1998

Section 1414(c)(4) of the SDWA Amendments of 1996 provide for annual consumer confidence reports by community water systems (CWS) to their customers. These reports are required annually to provide specific information on the level of contaminants in the drinking water purveyed by that system. Section 1414(c)(4)(A) requires the regulations to provide a brief and plainly worded explanation of several drinking water related terms, brief statements in plain language regarding the health concerns that resulted in regulation of each regulated contaminant, and a brief and plainly worded explanation regarding contaminants that may reasonably be expected to be present in drinking water including bottled water. Section 1414(c)(4)(B) provides for additional specific requirements for the contents of the consumer confidence reports, including allowing additional information be placed in the report if deemed appropriate by the CWS for public education. Section 1414(c)(4)(C) authorizes the Governor of a State to determine not to apply the mailing requirement to CWSs serving fewer than 10,000 persons. Section 1414(c)(4)(D) allows those CWSs that are not required to meet the mailing requirements, and which serve 500 persons or fewer, to meet their consumer confidence report obligation by preparing an annual report, making it available upon request, and providing notice of its availability at least once per year to each customer by mail, by door-to-door delivery, by posting, or by any other means authorized in the regulations. Section 1414(c)(4)(E) provides that a State exercising primary enforcement responsibility may establish by rule, after public notice and comment, alternative requirements with respect to the form and content of the consumer confidence reports.

To implement the Amendments in Section 1414(c)(4), EPA promulgated the CCR on August 19, 1998 (63 FR 44512).

Suspension of UCMR for Small Systems – promulgated January 8, 1999

The SDWA Amendments of 1996 requires EPA to establish criteria for a program to monitor unregulated contaminants and to publish a list of contaminants to be monitored for by August 6, 1999. This new regulation will supercede the previous regulations concerning unregulated monitoring. The new regulation allows for implementation of the rule via an agreement between EPA and the States, i.e., an MOA which will take the place of the adoption process for this regulation. In addition, related to this rule, a direct final rule, dated January 8, 1999, suspends the previously required monitoring for small and medium systems starting December 31, 1998. Systems serving less than 10,000 will not be required to perform the existing unregulated contaminant monitoring, and also revises the primacy issues associated with unregulated contaminant monitoring (i.e., 141.35, 141.40 and 142.16).

Interim Enhanced Surface Water Treatment Rule (IESWTR) – promulgated December 16, 1998

The SDWA Amendments of 1996 established new drinking water requirements for PWSs, and new Special Primacy Requirements on States regarding microbial disinfection. To implement the Amendments to .1412(b)(2)(C), EPA promulgated the Interim Enhanced Surface Water Treatment Rule (63 FR 69478) on December 16, 1998. Additionally, the Amendments modified record keeping requirements to apply to every person who is subject to a requirement of this title or who is a grantee (Section 1445(a)(1)(A)). These record keeping modifications are included in the above Federal Register Notice.

The IESWTR establishes treatment requirements for the removal of *Cryptosporidium* in drinking water and addresses risk tradeoffs with disinfection byproducts through the requirement of conducting disinfection profiling and disinfection benchmarking.

Disinfectants and Disinfection Byproducts Rule (D/DBPR) – promulgated December 16, 1998

The SDWA Amendments of 1996 established new drinking water requirements for PWSs, and new and new special primacy requirements on States regarding disinfectants/disinfection byproducts. To implement the Amendments to .1412(b)(2)(C), EPA promulgated the Stage 1 Disinfectants and Disinfection Byproducts Rule (63 FR 69390) on December 16, 1998. The D/DBP Rule established new requirements for the control of disinfection byproducts including new MCLs for THMs, HAA5, Chlorite, Bromate, and maximum disinfectant residuals for Chlorine, Chloramines, and Chlorine Dioxide. The Rule also sets requirements for advanced coagulation/sedimentation processes for the reduction of DBP precursors (i.e. TOC). In addition to the above Rules, the revisions to the MDBP (as a Direct Final Rule) include changes to the monitoring period (to coincide with calendar quarters) and extending the use of new analytical methods included in the earlier set of rules to compliance monitoring for TTHMs.

Lead and Copper Rule, Minor Revisions (LCMR) – Promulgated January 12, 2000

Minor revisions to lead and copper rule were promulgated with the intent to streamline and reduce regulatory burdens where such changes could be made without jeopardizing the level of public health protection and to improve rule implementation. Also the Agency addressed issues that were the subject of a judicial remand, concerning control of lead service lines and exclusion of transient systems.

Any SDWA
ref #?

Section I. State Primacy Revision Checklist

State Primacy Revision Checklist		
Required Program Elements	Revision to State Program (Yes or No)	EPA Findings/Comments
§142.10 Primary Enforcement	Yes	
§142.10(a) Regulations No Less Stringent	Yes	
§142.10(b)(1) Maintain Inventory	Yes	
§142.10(b)(2) Sanitary Survey Program	Yes	
§142.10(b)(3) Laboratory Certification Program	Yes	
§142.10(b)(4) Laboratory Capability	Yes	
§142.10(b)(5) Plan Review Program	Yes	
§142.10(b)(6)(i) Authority to Apply Regulations	Yes	Authority changed based on Cap Del & Def
§142.10(b)(6)(ii) Authority to Sue in Courts of Competent Jurisdiction	Yes No	
§142.10(b)(6)(iii) Right of Entry	Yes	
§142.10(b)(6)(iv) Authority to Require Records	Yes	
§142.10(b)(6)(v) Authority to Require Public Notification	Yes	
§142.10(b)(6)(vi) Authority to Assess Civil and Criminal Penalties	Yes	
§142.10(b)(6)(vii) Authority to Require CWSs to Provide CCRs	Yes	
§142.10(c) Maintenance of Records	Yes	
§142.10(d) Variance/Exemption Conditions	Yes	
§142.10(e) Emergency Plans	Yes	
§142.10(f) Administrative Penalty Authority	Yes	

Section II. Text of State's Regulation

A copy of the State of New Jersey Safe Drinking Water Act regulations effective August 21, 2000 and Licensing of Water Supply and Wastewater Treatment Operators regulations effective October 2, 2000 are enclosed. The New Jersey Safe Drinking Water Act regulations, N.J.A.C. 7:10-5.1. Applicability of National Regulations, explains that all National Primary Drinking Water Regulations are adopted by reference into the New Jersey Primary Drinking Water Regulations, applicable to all public water systems. Therefore changes to the Federal rules are incorporated into the State regulations.

Public Law 1999, chapter 362 was signed into law in New Jersey on January 14, 2000. According to this statute, the authority granted pursuant to the A Safe Drinking Water Act Amendments of 1996," 42 U.S.C.s.300f et al., to exempt public community water systems serving fewer than 10,000 persons from the requirement to mail a Consumer Confidence Report to each customer shall not be exercised. In addition, this legislation requires community water systems to include the language in Section 141.154(a) of the Federal Safe Drinking Water Act rules in bold print within the header of any chart displaying levels of detection and maximum contaminant levels for contaminants included in the Consumer Confidence Report. Certain noncommunity water systems are required to post drinking water test results.

Pursuant to Executive Order No. 66 (1978), Chapter 10, Safe Drinking Water Act, was readopted as R.2000 d.354, effective July 31, 2000, and Subchapter 13, Standards for Technical, managerial and Financial Capacity of Public Community and Noncommunity Water Systems, were adopted as new rules by R.2000 d.354, effective August 21, 2000. Under Executive order No.66, Chapter 10, Safe Drinking Water Act rules expire on July 31, 2005. It is the NJDEP's position that although the National Primary Drinking Water Regulation at 40 CFR 141 are adopted prospectively at N.J.A.C. 7:10-5.1, the NJDEP qualifies for primacy of any NPDWR adopted by the USEPA through July 31, 2000. Hence, this primary application includes any NPDWR adopted through July 31, 2000.

Section III. Primacy Revision Crosswalk

Bruce and Mike would like to see a para instead of the cross walks. NJ adopts by reference and make little sence to go throught the whole thing with the same answer.

*New Jersey Safe Drinking Water Act regulations, N.J.A.C. 7:10-5.1, Applicability of National Regulations, explains that all National Primary Drinking Water Regulations are adopted by reference into the New Jersey Primary Drinking Water Regulations, applicable to all public water systems.

Section IV. State Reporting and Record Keeping Checklist

State Reporting and Recordkeeping Checklist - CCR	
Requirement	Are State Policies Consistent with Federal Requirements? If Not, Explain
§ 142.16 (f) - Records Kept By The States	
Each State that has primary enforcement responsibility must make CCRs submitted to the State in compliance with 40 CFR 155(c) available to the public upon request.	<p>Yes</p> <p>The Bureau of Safe Drinking Water (BSDW) in the New Jersey Department of Environmental Protection (NJDEP) maintains an easily accessible dedicated file section for storage of original CCRs and CCR Certifications submitted by New Jersey community water systems.</p> <p>Requests from the public are fulfilled with a photocopy of the requested CCR.</p>
Each State that has primary enforcement responsibility must maintain a copy of the CCRs for a period of 1 year.	<p>Yes</p> <p>BSDW maintains a dedicated file.</p>
Each State that has primary enforcement responsibility must keep a copy of the certifications obtained pursuant to 40 CFR 141.155(c) for a period of 5 years.	<p>Yes</p> <p>BSDW maintains a dedicated file.</p>
<p>Each State that has primary enforcement responsibility must report violations of 40 CFR 141, Subpart O in accordance with the requirements of §142.15(a)(1).</p> <p>< §142.15(a)(1): Each State which has primary enforcement responsibility shall submit quarterly reports to the Administrator on a schedule and in a format, prescribed by the Administrator that contains information on violations by PWSs during the previous quarter of State regulations adopted to incorporate the requirements of the NPDWR.</p>	<p>No</p> <p>Since CCRs are prepared and submitted to BSDW by July 1 of each year, CCR violations are reported to EPA Region 2 once a year.</p> <p>The reports are submitted by September 30 of each year in a format prescribed by EPA Region 2.</p>

Reporting and Recordkeeping Checklist for the IESWTR

Requirement	Are state policies consistent with federal requirements? If not, please explain.
Each state that has primary enforcement responsibility must keep records of turbidity measurements for not less than 1 year; information retained must be set forth in a form which makes possible comparison with turbidity limits specified in §141.71, 141.73, 141.173, 141.175.	Yes, See new reporting forms in Appendix A
Each state that has primary enforcement responsibility must keep records of disinfectant residual measurements and other parameters necessary to document disinfection effectiveness in accordance with § 141.72 and 141.74, and the reporting requirements of §141.75 and 141.175; records must be kept for not less than 1 year.	Yes, See new reporting forms in Appendix A
Each state that has primary enforcement responsibility must keep written records of decisions made on a system-by-system and case-by-case basis under the provisions of 40 CFR 141, subpart H or subpart P.	Yes Records to be maintained in the compliance decision file folder
Each state that has primary enforcement responsibility must keep records of systems consulting with the state concerning a modification to a disinfection practice under §141.172(c) including the status of the consultation.	Yes Records maintained through the permitting process in the permit file folder
Each state that has primary enforcement responsibility must keep records of decisions that a system using alternative filtration technologies as allowed under §141.173(b) can consistently achieve 99% removal of <i>Cryptosporidium</i> oocysts; decisions must include state-set enforceable turbidity limits for each system; copy of the decision must be kept until the decision is reversed or revised; state must provide a copy of the decision to the system.	Yes Records are maintained in the source file and permitting records. Note: NJ rules require turbidity not to exceed 0.3 NTU in 95% of samples regardless of filtration technology.
Each state that has primary enforcement responsibility must keep records of systems required to do filter self-assessment, CPE, or CCP under the requirements of §141.175.	Yes Records to be maintained in the compliance decision file folder
Each state that has primary enforcement responsibility will keep a list of Subpart H systems that have had a sanitary survey completed during the previous year and an evaluation of the state's program for conducting sanitary surveys under §141.16(b)(3).	Yes Records to be maintained in the compliance inspection / sanitary survey file folder

Reporting and Recordkeeping Checklist for the Stage 1 DBPR

Requirement	Are state policies consistent with federal requirements? If not, please explain.
Each state that has primary enforcement responsibility must keep records of currently applicable or most recent state determinations including all supporting information and an explanation of the technical basis for each decision made under 40 CFR 141 subpart L for the control of disinfectants and disinfection byproducts; records must also include interim measures toward installation.	Yes
Each state that has primary enforcement responsibility must keep records of systems that are installing GAC or membrane technology in accordance with §141.64(b)(2); records must include date by which the system is required to have completed installation.	Yes
Each state that has primary enforcement responsibility must keep records of systems that are required by the state to meet alternative minimum TOC removal requirements or for whom the state has determined that the source water is not amenable to enhanced coagulation in accordance with §141.135(b)(3) and (4); records must include the alternative limits and the rationale for establishing alternative limits.	Yes
Each state that has primary enforcement responsibility must keep records of Subpart H systems using conventional treatment meeting any of the alternative compliance criteria in §141.135(a)(2) or (3).	Yes See reporting forms in Appendix A
Each state that has primary enforcement responsibility must keep a register of qualified operators that have met the state requirements developed under §142.16(f)(2).	Yes Master roster maintained of LOs
Each state that has primary enforcement responsibility must keep records of systems with multiple wells considered to be 1 treatment plant in accordance with §141.132(a)(2) and §142.16(f)(5).	Yes Master log maintained for # of POEs and grouped GW POEs for DBP monitoring
Each state that has primary enforcement responsibility must keep monitoring plans for Subpart H systems serving more than 3,300 people in accordance with §141.132(f).	Yes Records to be maintained in the compliance decision file folder
Each state that has primary enforcement responsibility must keep a list of laboratories approved for analyses in accordance with §141.131(b).	Yes Master maintained by Office of Quality Assurance that is accessible to BSDW
Each state that has primary enforcement responsibility must keep a list of systems required to monitor for disinfectants and disinfection byproducts in accordance with 141 subpart L; list must indicate what disinfectants and DBPs other than chlorine, TTHM, and HAA5, if any, are measured.	Yes Initially there will be a manual log in data mgt. Eventually it will be maintained in SDWIS State once system is implemented in NJ

Section V. Attorney General's Statement of Enforceability

I hereby certify, pursuant to my authority as attorney for the New Jersey Department of Environmental Protection ("the Department"), that as part of its ongoing program to assume primacy enforcement responsibility for the public water systems in New Jersey, the Department has adopted regulations which incorporate, by reference, the National Primary Drinking Water Regulations set forth at 40 CFR Part 141, as they are amended and supplemented from time to time.

Pursuant to NJ Executive Order No. 66 (1978), Chapter 10, Safe Drinking Water Act, was readopted with changes as R.2000 d.354, effective July 31, 2000, and Subchapter 13, Standards for Technical, managerial and Financial Capacity of Public Community and Non-Community Water Systems, were adopted as new rules by R.2000 d.354, effective August 21, 2000. Under Executive order No.66, Chapter 10, Safe Drinking Water Act rules expire on July 31, 2005. It is the Department's position that although the National Primary Drinking Water Regulations (NPDWR) at 40 CFR 141 are adopted prospectively at N.J.A.C. 7:10-5.1, the Department qualifies for primacy of any National Primary Drinking Water Rule adopted by the USEPA through July 31, 2000. Hence, this primary application includes only NPDWR rules adopted through July 31, 2000, namely "Lead and Copper Technical Corrections Rule," "Analytical Methods Technical Corrections Rule," "Analytical Methods for Radionuclides Rule," "Administrative Penalty Authority," "Emergency Plan Revisions," "Public Water System Definition," "Consumer Confidence Report (CCR) Rule," "Suspension of UCMR for Small Systems," "Interim Enhanced Surface Water Treatment Rule (IESWTR)," "Disinfectants and Disinfection Byproducts Rule," and "Lead and Copper Rule Minor Revisions." In my opinion the laws of the State of New Jersey to carry out the safe drinking water program set forth in N.J.A.C. 7:10 have been duly adopted and are enforceable.

JOHN J. FARMER, JR.
ATTORNEY GENERAL

By: _____
Roger S. Haase
Deputy Attorney General

Date: _____

APPENDIX A

NJ -- Bureau of Safe Drinking Water

Disinfection Byproducts

And

Interim Enhanced Surface Water Treatment

Rules

New Reporting Forms

March 29th, 2002

Section IV. State Reporting and Record Keeping Checklist

Reporting and Recordkeeping Checklist for the Consumer Confidence Report

State Reporting and Recordkeeping Checklist - CCR	
Requirement	Are State Policies Consistent with Federal Requirements? If Not, Explain
§ 142.16 (f) - Records Kept By The States	
Each State that has primary enforcement responsibility must make CCRs submitted to the State in compliance with 40 CFR 155(c) available to the public upon request.	<p>Yes</p> <p>The Bureau of Safe Drinking Water (BSDW) in the New Jersey Department of Environmental Protection (NJDEP) maintains an easily accessible dedicated file section for storage of original CCRs and CCR Certifications submitted by New Jersey community water systems.</p> <p>Requests from the public are fulfilled with a photocopy of the requested CCR.</p>
Each State that has primary enforcement responsibility must maintain a copy of the CCRs for a period of 1 year.	<p>Yes</p> <p>BSDW maintains a dedicated file.</p>
Each State that has primary enforcement responsibility must keep a copy of the certifications obtained pursuant to 40 CFR 141.155(c) for a period of 5 years.	<p>Yes</p> <p>BSDW maintains a dedicated file.</p>
<p>Each State that has primary enforcement responsibility must report violations of 40 CFR 141, Subpart O in accordance with the requirements of §142.15(a)(1).</p> <p>< §142.15(a)(1): Each State which has primary enforcement responsibility shall submit quarterly reports to the Administrator on a schedule and in a format, prescribed by the Administrator that contains information on violations by PWSs during the previous quarter of State regulations adopted to incorporate the requirements of the NPDWR.</p>	<p>Yes</p> <p>Since CCRs are prepared and submitted to BSDW by July 1 of each year, CCR violations are reported to EPA Region 2.</p> <p>The reports are submitted by September 30 of each year in a format prescribed by EPA Region 2.</p>